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# Governor's Message

Territory of Montana.

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# Governor's Message.

TERRITORY OF MONTANA,  
EXECUTIVE OFFICE,  
HELENA, January 14, 1889.

*To the Honorable Members of the Council and House of the  
Legislature of Montana:*

It becomes my official position to welcome you to the responsible duties the electors of Montana have placed in your hands, and to assist you in the discharge of those duties for the public good. Trusting in your fidelity, they have called you to legislate for the good of this great and prosperous territory. At this crisis in our history, when we expect soon to assume the dignity and responsibilities of statehood, your position becomes more responsible and more honored than any of your predecessors; in no small degree your labors may aid in laying broad and deep the foundations of the coming commonwealth of Montana. Spanning nearly five degrees of latitude and twelve of longitude, interspersed by vast mountain chains, Montana will serve as the connecting link between the Pacific and central states, with the Atlantic states so closely allied, making one indestructible union. Our mountains veined with gold and silver and the more useful metals, our placers filled with gold, and wide prairies covered with grasses, are fast giving us individual and public wealth. To secure the greatest prosperity in these vast industries will require your best thought and ripest statesmanship. Industries so varied and so extensive, over broad areas, require laws to be most carefully adjusted and compromises skillfully made for all these wants and necessities. In discharging these grave responsibilities, I shall most cheerfully co-operate with you to secure the best results of our united labors in behalf of Montana.

The financial condition of this territorial government is sound and healthy. At the close of the last fiscal year—31st day of December, 1888—the territory was out of debt, and there was in the treasury one hundred and fourteen thousand three hundred and forty dollars, and forty-eight cents (\$114,340.48) balance of the general fund in cash; four thousand nine hundred and thirty-nine dollars and six cents (\$4,939.06) balance of the stock inspection and detective fund; nine thousand and eighty-six dollars and sixty-four cents (\$9,086.64) balance of the stock indemnity fund; and one thousand eight hundred and twenty-six dollars and fifty-eight cents (\$1,816.58) balance of sheep inspector and indemnity fund. Every citizen of Montana must feel proud of this healthy condition of the government. The auditor's and treasurer's reports for the year just ended will be laid before you for your examination and action thereon.

There is hardly a people anywhere who pay more cheerfully and promptly their taxes. Nevertheless, it is a solemn duty upon you, and I urge that you make such enactments as will secure the assessment for taxation all taxable property of the territory. Not that the government needs more money, but in order that the burdens of government may rest more equally upon the people. If you will make such laws as to certainly secure the assessment of all the property (which by law is taxable) the people's taxes may be reduced one-half, and the same amount or more money collected. Equality and uniformity in the taxation imposed upon a people are always desirable, and held to be a feature of justice in the government. If you will take the pains to study the assessed values fixed upon the same class of property in different parts of this territory there will be seen such a glaring difference as to shock all sense of fairness and every principle of justice. The only remedy for this, in the legislation of Montana, is that there be enacted a law creating a board of equalization, after the fashion of other and older governments. and vest that tribunal with the power to revise, harmonize and equalize the values for assessable purposes all over the territory.

In entering upon the duties of legislation for your constituency you are confronted with the laws of Montana which provide, as one of the means of raising revenue to carry on the government, that persons may buy for a price from the government, the privilege of carrying on the business of gambling, selling whisky and other intoxicating drinks. When these privileges, or any of them, are bought, and a license is issued, the purchaser can proceed anywhere, and on every day, including Sunday, of the time for which he has purchased the privilege, to openly and publicly push his licensed business. It is a well known fact that

each of these avocations is prosecuted with great persistence all over this prosperous country. Each business is gathering every day from the ranks of innocent, unsuspecting youth, and from contented households, recruits for the penitentiary and the hangman's trap. The fruits resulting from the conduct of these avocations are saturated with the tears of sorrow, crime and taxation. No joy, peace or happiness to man or woman, no improvement to the heart or intellect ever comes from these engines so full of consuming fire. I submit to you whether your constituencies are willing any longer for this licensed unscrupulous crime-breeder to add his drafts upon the pockets of the people, feed upon the scant substance of the widow and orphan, and have for his drink the tears of the innocent? The policy of raising revenue for the support of government by corrupting the morals of the people is not sound, and should be abandoned. But if your sense of duty to the people and to the God of your being lead you to acquiesce in and continue this system, I urge that you provide for the taxation of each and every branch and phase of gambling and liquor traffic, so there may be a show of fairness toward all classes of persons engaged in those *lawful* business pursuits of life. There is a large number of persons in Montana whose good citizenship and business should be protected against the presence of these evils. Men embark in enterprises, aggregating their capital in opening mines for gold, copper, silver and coal, opening great ditches and many other classes of business, necessitating a large force of men. They build churches and school houses, and multitudes of people gather there for counsel and instruction. Without any comment upon what has occasionally occurred heretofore with reference to the vigilance of those engaged in the two notable callings spoken of, I recommend that you pass laws more far-reaching, and effectually protecting the churches and schools and the business points of the people against the presence, smell and temptation of these vices which camp about the doorways of gathering industry and enterprise in this territory.

#### DERELICTION OF OFFICERS.

The system of conducting this government is wisely arranged in the lodgment of very much power in the hands of its public officers, imposing upon them the duty of making reports at certain specified times to the chief officer at the head of their respective departments. This requirement is made with the view that the affairs and condition of the government may be readily seen and made known. It is a provoking fact, I am sorry to say, that a large number of officials in the counties disregard the law in this respect, and many of the most important reports are withheld until public servants are pleased to make them. The completion of the reports of the territorial officers was

delayed until late in December, 1888, and late in January the year preceding, all because of the neglect of county officers in making their reports as required to do by law. This evil had become so annoying, and hurtful to public interests, that thirteen years ago the governor felt it to be his duty to mention the subject in his message to the legislative assembly. I now again bring it before you, and urge upon you that you are not only the representatives of the office holders, but of the whole people, and the public interest is suffering on account of these derelictions of duty. The interest that the people have in the offices is that the officer placed in charge shall fill and perform the duties assigned him. The interest of your constituency demands that you institute and enact some provision, or summary punishment, and provide for its enforcement against delinquent officials.

#### SUNDAY LAW.

In the message of Gov. B. F. Potts, dated Jan. 3, 1876, to the legislative assembly of Montana, the following language appears: "I cannot too strongly urge the enactment of a law prohibiting rioting, sporting, quarreling and engaging in common labor work (work of necessity and charity excepted) on the first day of the week, commonly called Sunday, exempting from its provisions those of our citizens who religiously observe the seventh day of the week as a day of rest. This is the third time I have urged this subject on the attention of the legislature, and I have now more confidence in the wisdom and justice of the recommendation than at any time before. I hope the subject will be urged upon the attention of every legislature that assembles in Montana until it is enacted into a law." I reproduce this sentence uttered by that grand statesman as part of his counsel to the people of the territory he loved so well, and to whose service and welfare he so faithfully and ably devoted so many years. They are words full of wisdom, ringing out from the grave of a patriot and statesman. I delight to hold out before your eyes and repeat for your hearing the hope he therein expressed "that this subject be urged upon the attention of every legislature that assembles in Montana until it is enacted into a law." The necessity for such a law is now in Montana more urgent and pressing than ever before. I need not point to the shocking and impious open gambling houses, the open doors of saloons and traffic publicly carried on; nor to the open business houses and shops of all kinds, and the business generally carried on upon this day, so much revered and honored by so many of our good people. There is no state in this grand empire of states but whose people have just the law so earnestly urged by that noble governor in his message. We have now in this youthful, growing government at least thirty, and perhaps forty, thousand children, already pushing their way along the

path of life, and in almost every city, town, village and neighborhood there are church houses, church bells, Sunday schools and a preached gospel; and, in addition, these same cities, towns and country places are filled with the music of the school-room, and large revenues are paid by the people for education—in fact, Montana's jewels are her children, and yet there is set about in the neighborhood of every school house, church building and congregation of worshippers of Almighty God these hatch-houses of crime on the Christian Sabbath day. I do most earnestly urge you to give heed to this subject, and place this rising government side by side with the other governments in this country founded on Christian principles, and in your enactments show to the world that this is a God-respecting people.

EXPERT EXAMINER.

This territorial government is a great copartnership in which every person residing in Montana has an interest, and like all other business enterprises is carried forward through agencies, selected for their capacity and fitness for the particular place to be filled. The public officers, including those of the counties, cities and towns, are agencies provided by law as one of the means for successfully carrying on this important business of government. The place called office, committed to the possession and occupancy of the agent, is full of importance to every citizen. That importance consists in part in the fidelity, promptness and integrity with which the officer executes and performs the duties enjoined by law. There is the greatest necessity to the public, and often more to the individual, that these agents perform their official pledges, in manner, time and place as provided and directed by law. The history of office-holding in almost every government in America and other lands is full of sad warnings, which call for the utmost vigilance and supervising care by the people. It has been found by experience in the older countries, as like wise in the United States, that frequent looking into accounts and the conduct of public officers is a most valuable supplement to the bond and security which are given upon entering into office, and is the most unfailing security against defalcation and disgrace. The government of the United States has provided by law for expert examiners for every department of the government, and nearly all, if not all, of the states have made like provisions with reference to their officials. This system of oversight upon public agents has gained more favor as it has been applied and put in practical operation. And to-day all over England, France and America, and in every state of this family of states, this detective, ever-present, examining oversight by the government is accepted and relied upon as the most unquestioned barrier to fraud and failure of any that has ever been adopted. Without any reference

to the conduct and efficiency of any of Montana's officers in their service heretofore, I do most earnestly urge upon you to pass a law, carefully guarded, providing for, at least, one expert examiner for this government, and impose upon him the duty of searching into the official accounts and proceedings of the public officers of this territory at irregular times, especially those receiving public money. Your own thoughtful wisdom will suggest the details of such a measure, necessary to meet the wants of the people in this regard.

#### EDUCATION.

All men are born into this world calling for three great wants, to-wit: culture, knowledge and something to explain to them all they see around them, and also their own nature, condition and destiny. In civilized times and in a Christian land the means of finding an answer to these wants were to be supplied to the young by parental care, public provision or Christian benevolence. All three of these modes of instruction are employed and relied upon in every civil government throughout North America. Public provision by the government for the education and culture of its children adorns the pages of the history of each of the states. Public provision for universal education is now a cardinal principle in the government of this country. In the early years of Montana's assuming to take upon herself some form of government, the people laid the foundation for a system of public schools which has grown with the years of this population, and has improved and strengthened as experience and more light have been unfolding. The history of education in Montana is the history of a people showing pluck and liberality far surpassing any in the United States in the progress and holding up of public schools. The school fund at the command of this association of people, called the government of Montana, is the taxes collected every year from the people, and this fund pays over twenty dollars towards educating each child. I am glad to learn that the people are reaching out anxiously for the most approved methods of school work, and for employment of the most cultured teachers. They have more regard with reference to the chance and certainty of thorough and skillful instructors than the question of cost. Our people are imbued with the spirit and sentiment that the strength and safety of the country is the virtue and intelligence of the youth. They are the flower of the country—the rising hope of the church and society. Preserve them uncorrupted through the channels of training to the years of putting on manhood, then they come forward with enlightened minds and good morals to take their places on the stage of life. The foundations of social order and happiness will be secure, and no weapon raised against the safety of the commonwealth can excite alarm. All wise and



benevolent men, whether statesmen, philanthropists or ministers of religion, have always felt a deep and peculiar interest in the youth of the country, and in all their attempts to produce reformation and advance human happiness the young have engaged their first and chief regard. This spirit of tender thoughtfulness and care is in full accord with the teaching that comes to us, endorsed by the greatest of all law-givers. Hardly any one trait of the Bible is more prominent than its benevolent concern for the youthful generations of men. On them its instructions drop as the rain, and distil as the dew; around their path it pours the purest light and sweetest promises, and by every motive of kindness and entreaty, of invitation and warning, aims to form them for duty and happiness, for holiness and for God. It devolves upon you, the representatives of this wide-awake and liberal people, to respond with no hesitating or temporizing spirit to the clamoring voice of the people for higher recognition of this great and sacred department of our government. The reports of our able superintendent of public instruction for the years 1887 and 1888 will be laid before you. These reports and the wise suggestions and recommendations therein contained I heartily commend to your careful perusal and action.

The chief factors in the enlightenment and awakening of the people to the calls and friendly offerings of this system of public schools is the thorough acquaintanceship and familiar mingling and discussion with them of the subject by the trusted head officer placed in charge of the department. His frequent presence in council with the people, trustees, teachers and county superintendents quickens into active force the spirit of emulation and progress, and accomplishes uniformity in every part of the territory in conducting the schools.

The people of the territory are far in advance of the provisions of the present law on the subject of education. Every well arranged government has its department of education, as well as its department of justice, agriculture, mechanics, etc. Education is as absolutely a department of the government of Montana as is the finance, the judicial or any other; and certainly there is no department having a warmer place in the hearts of the people. The compensation provided by law for carrying on and sustaining this department is glaringly disproportionate to every other one in the government. This would seem to imply that the educational department has a far less degree of favor with the people than the other divisions and departments of the government. I do not believe such to be the estimate in which this subject is held. The meager sums provided by law to pay the superintendent of public instruction may possibly have been sufficient under the state of things years ago, but now in the advanced progress of settlements all over the territory and increase of school children, a far greater, broader and higher

bills in that body. It has been the policy of the government for the last twenty-five years to grant such aid for the encouragement and building up of agricultural and mechanical colleges, and in many instances most valuable property has been granted by congress to the states for this purpose. I am sure that it only needs prompt and earnest attention to secure this valuable reservation for the educational interests of the territory.

#### PENITENTIARY AND HOUSE OF REFORM.

The punishment of crime is a part of the business of human government. The right of the people to punish crime by methods prescribed by law is perfect. It is said that "self-preservation is the first law of nature" and "resistance to wrong is an inherent right." It is upon these principles that the government undertakes to protect its subjects and preserve itself against crime; and hence laws are enacted by the authority of which the agencies of the government seize the violator of the laws and transgressors of the rights of citizens, and subjects him to discipline, confinement or death. This is penology, and its history is coeval with the history of government. People living under an organized government have absolutely no right to punish any offender without law. To punish without law is the grossest violation of law—it is crime. Lynch law wherever it exists is savagery, or is evidence of undeveloped, or of a degenerated society. Nor should the government impose punishment in any spirit of vengeance. The government of Montana has, through the years of its growth, for a quarter of a century, provided by law punishment as penalties to be imposed upon wrong-doers, tempered according to the degree of crime. Chief amongst those penalties is confinement in the penitentiary. The territory has never yet built or owned a state prison for the confinement and punishment of its criminal classes. The United States has a penitentiary within the territory at Deer Lodge, and ever since the beginning of the year 1874 the territory has secured the confinement, care and support of its convicted criminals in that prison, under contract with the United States government, and there they have been confined, male and female, old and young, of whatever nationality. No prisoner is required to work one hour of the time for which he is there confined. The institution is a very sightly, well-provided and well-kept home, furnished with the best medical skill, kind nursing, ample supply of reading matter, and a chaplain. The buildings and grounds are admirably arranged for the safe-keeping, comfort and health of the convicts. These considerations, with the vigilance and skill of the present keeper, Hon. R. S. Kelly, show the remarkable fact that no death has occurred there within the last three and a half years. There are but seventy cells provided there in which to keep prisoners. This limited provision for room has

necessitated the putting of two convicts in each cell, and, in addition to that number, there are periods of time when ten to fifteen others have to be bedded on the floors of the open rooms, and guarded with extra attention to prevent escape. The territory has thus paid for boarding in idleness the convicted criminals since Jan., 1874, two hundred and seventy thousand dollars, and the auditor's office shows the fact that these annual outlays are increasing from three to seven thousand dollars a year. You are therefore confronted with the question, whether you will continue this improvident mode of treating the wrong-doers of this territory, or as other governments have done, you will provide a penitentiary and other institutions to meet the wants of Montana's people for the confinement and punishment of the bad and evil disposed subjects of the government?

All civil governments of which history gives us any account, had their system of penology and fashioned in their own chosen way their execution. But we are proud of the fact that America gave to the world the first penitentiary, and here was born the idea of reformatory discipline in a prison. This grand conception, as a means of repressing crime and reclaiming fallen men, was taken up by all the states of this confederacy, and until about the year 1835 the American states were leading the civilized world in their enlightened and improved methods of punishing crime. Since then, however, England and some of the older governments have outstripped and gone far in advance of our people. Montana has a place among the American commonwealths, and is now in sight of statehood, securing to her people full and equal political rights with those of other sovereign states of this great confederacy of states; the swelling tide of immigration to this great empire of unfolding wealth gives to the thoughtful statesman no uncertain sound, its warning voice counsels to prepare and lay well the foundation of every department of this rising government, and especially to provide the amplest security to the citizen against crime and violence. Montana cannot afford any longer to neglect and refuse to have a state prison, one of such architectural proportions and dimensions, extent and security as will fully answer all the present and future demands of this growing power, and the same put under such humane government and control as shall comport with the enlightened age in which we live. Montana is no longer an orphan, capable only of exercising such power and doing such things as the congress of the United States allows, but is a full grown, well-matured intelligence, self-reliant, and fully capable of carving out and shaping her own institutions, and giving direction to their administration. Shutting a prisoner up in a bastille and separating him from the world is not enough. It is neither just to him nor to the state to stop with that little measure of punishment; but, in addition, there should be imposed on him

hard labor, in his confinement within the walls of the prison house and behind the bolted doors. This is an element of discipline which should be administered and enforced by the corrective hand of the state, and the guilty criminal should in this way be forced to contribute in some degree to his own support while drinking of the bitter cup he himself has prepared. There is no hiding the fact that crime holds high carnival in our land. The detention and punishment of crime form one of the greatest items of cost to our government; and it requires armies of officers to hunt and discover criminals, and yet governments are powerless to prevent the commission of crime. The hope of eternal bliss and the fear of eternal woe are alike powerless. The convict required to work in prison, as honest people do outside, will be prepared to better fill his place as a free man when again turned out upon the world.

#### HOUSE OF REFORM.

It is a source of sorrow and regret, and hangs as a dark curtain over the hearthstone of many homes, that many of the youths of our territory, while yet in the morning of life, fall victims to crime, and become subjects of punishment by the government. In the absence of any other provision for their confinement, they are sent to the county jail or to the penitentiary, and there kept in idleness, the associates of older men who are hardened and skilled in crime. Thus the state is actually putting in apprenticeship the offending youth to the tuition and molding of the very worst men and most offensive characters in the commonwealth. These young pupils, already marked as felons, are ready to absorb and become saturated with sin and the evil spirit, cherished and nursed in malice toward the world by older adepts in crime. In many instance they come out worse in heart, and eagerly enter upon a bolder life of shame and wrong-doing. There is a solemn obligation upon the government to extend its strong arm about the youth of the country, and guard his way well against the evil and vicious population, not only those of that class who go at large seeking whom they can seduce, but also against those in its own possession and confinement in prison. The duty of the government does not cease toward a wayward boy who has been convicted of crime. He may be only 15 to 20 years old, and should not be thrown away; nor should he be sentenced to a life of idleness, under the instructions and tutelage of the vile and debauched criminals gathered in council in the penitentiary. Such a disposition and such a means of correction and reclaiming the fallen youth of the state are a shame and a mockery, and deserve no favor in any enlightened community. Nevertheless, government is compelled to inflict punishment on the young who embark in crime as well as upon the adult and that punishment should be

certain and positive. It is essentially important that hard labor be exacted of the young offender; keep him engaged, and have him learn that labor is helpful and inspiring, and is the great platform on which man in this world is to play his part, doing good to others and honoring his Creator. It is the greatest folly to coerce the bad boy by punishment without making him better by instruction. Imprisonment in the county jail or the penitentiary neither deters nor reforms, because there is no labor there. It is demoralizing in the extreme to those of tender years. Physical employment in the construction of building improvements, ornamentation of grounds, in the workshop at mechanics and in the field of agriculture, is refining and helpful in its influences, and elevates the tone of human ambition. There is not a mother or father, however bad the child may have been, but is tormented and crushed in heart more from a knowledge of the base and despicable associates in prison given to the child by the law than from the punishment inflicted. The sorrowing family to which disgrace has come, through the criminal act of the child, still has hope that he will return reclaimed and made strong against temptation. But this hope and these expectations are all darkened and filled with increasing alarm by the fact that he is in the midst of teachers already graduated in crime, and are haters of all that is holy and virtuous. In addition to the care and interest the government should have for the reclamation of the young offender, it is due to the family from which he comes that he be so handled by the government as to strengthen the force of the home counsel, from which he has turned away, and to encourage a hope of his reformation. Hope, you will remember, is the friend whose whispering voice animates and invites us to something better yet to be attained, and is the last friend on earth that forsakes us.

I am glad to learn that in almost every state of this enlightened Christian country there are institutions provided by law for the confinement and correction of this class of our race, separate and apart from the baser and more hardened ones in crime. The success and rich fruits resulting from such separate systems have been so amazingly great, and so full of happiness to rejoicing families to whom the prodigal child has been returned, that now there can be found only a very few civil governments without such institutions. They stand out in every country where erected as great lighthouses, illuminating all within and shining out upon the world around.

I do most earnestly urge upon you and recommend that you carefully prepare and enact a law providing for the purchase of grounds at some suitable place in the territory, and building thereon a house of reform, giving the institution such name as you shall deem appropriate, for the confinement, punishment and discipline of those who shall be of tender years, when found in

crime. Such institution should be of suitable dimensions, and have such attachments, workshops and space for gardens, lawns and other grounds as may afford every facility to the training work and instruction of the inmates there confined, and proper provision should be made for its being placed in charge of true men and women, competent and fitted for the high and sacred trust confided to their care and government.

Moreover, I recommend that this class of offenders, while in jail awaiting a trial, shall be kept each one in a separate cell, and not allowed to mingle and converse with the older ones, or any of the prisoners there confined. And I respectfully suggest that you make some provision so that each and ever prisoner, of whatever age, while confined in jail, be kept separate from all others, and not allowed to mingle and counsel with each other, gamble, and form conspiracies for further criminal enterprises. And I recommend that the county commissioners of every county be required to make improvements in their jail, so as to conform to this requirement.

#### ASYLUM FOR THE INSANE.

Montana's people following in the light and example of older governments, and animated by the same Christian spirit, have in former years enacted laws showing the tenderest interest and care for the poor and unfortunate afflicted; in fact, offering to feed the hungry, clothe the naked, heal the sick, give sight to the blind, speech and hearing to the deaf mute and employment to the willing worker. Every child is the ward of the territory, and its treasury is open to its educational necessities—to the raving maniac as well as to the vacant-minded idiot. The system of help to the insane of the territory, providing for their care and treatment, has been for a number of years the contract system, and pursuant to the provisions of the statute on that subject, Doctors Mitchell and Mussigbrod contracted and agreed to receive into their asylum at Warm Springs, in Deer Lodge county, all those who are adjudged insane, and sent there, to lodge, care for and treat them for their diseases. And under that contract this class of unfortunate people have been kept and maintained, guarded and treated since the beginning of January, 1874, to January, 1889, at the aggregate cost of \$360,000.

The statistics of this terrible malady for these years show that it is increasing in a most alarming degree. There are now in the institution—patients. No complaint is found against these gentlemen for the manner of conducting the institution, or the way in which they have performed their contract. But, upon the contrary, much praise and honor is due them for their humane nursing, kind attention and skillful treatment of these sufferers while there in their charge. The record will show

you that through the years of their possession of these helpless insane ones of our population they have treated, and restored to reason and fitness for the freedom of life, and turned out—persons. It is a home to which is sent the old, the young and middle-aged, male and female, and from almost every nationality, including the untamed Indian. The number who have died there is about——.

The time has come when this system of help to these wards of the government should be improved, and made to rank side by side with those that so much adorn the older states. This new and rising commonwealth should have an asylum for the insane, known and understood to be the property of the government. No man or woman connected with its care and the treatment of the patients should have any pecuniary interest in the institution, or the confinement or release of the afflicted people received therein. They should be absolutely in the custody and care of the territory, and borne upon the warm hearts of the people, above every sordid, selfish suggestion of private interest.

I do most earnestly recommend that you act upon this important subject promptly, and I trust your wisdom and love of our race will open the way and lead you to provide for the purchase of that beautiful and well-built and arranged property and asylum owned by Mitchell and Mussigbrod, or some other grounds suitably located and adapted to the purposes of such asylum, and for the immediate construction of all necessary houses, lawns, gardens and water supplies; and I urge upon you that in case you shall determine to buy and build you adopt the cottage plan. It is the purpose and settled decision of every constituent, male and female, adult and child, represented in the halls of this legislative assembly, that these unfortunates of Montana's people shall have a home for treatment, and be provided for with liberal hand now and for all the years of the bright future awaiting this people's government.

My predecessor in office, in his able message to the fifteenth legislative assembly, laid this subject before that body, and urged that they make the provision that I now again lay before the people's representatives.

#### HOLDING INQUESTS IN CASE OF ALLEGED INSANITY.

The laws of this territory on the subject of holding inquests over persons charged with insanity are full of glaring defects, and need to be carefully revised and amended. I have reason to believe that much abuse and wrong have been practiced upon weak and innocent persons under the present statutes on this subject. To charge a person with insanity, and have an inquest thereunder, is a proceeding to take away his freedom, and confine him in prison behind bolted doors in the hands of strangers, and away from the tenderest kindred ties of loved ones at home

there to languish and await the keeper's favor to grant release. Remembering the long years of unjust confinement in the prison of Joseph, at the instance of a bad woman, and the bloody murder in prison of John the Baptist, and the great number of instances where under this insanity charge and successful manipulation of unworthy allies, men have put away their wives, children their parents, and other family ties have been severed, and good names blackened by this means of plunder and robbery of the most sacred of all the God-given rights of man, every precaution should be studied and provided, and a sentinel provided by law stationed at the door-way of every attempt through the means of a proceeding in the name of the law to establish insanity upon anyone; and that sentinel should be charged to guard well the trust confided to him. I have information, and believe it to be true, that here in Montana, malice, greed and other most unworthy and offensive agencies have played their part in more than one nefarious scheme of that grade. The present law should be amended, so that no person shall be put upon trial under this charge until the county attorney or some other lawyer, skilled and able in the profession, is provided, and is present to assist the accused, and guard against abuses such as those to which I have referred. I further recommend that twelve citizen housekeepers be the jury to hear the evidence and pass upon the question of the alleged insanity. This is the provision made by law for all who are arraigned upon a criminal charge, both as to counsel and the jury. And why not guard liberty and free locomotion as well to the one accused of insanity as to the criminal? A conviction in either case is loss of liberty and imprisonment. This security will more effectually guard the treasury against fraud and imposition.

#### ESTATES OF THE INSANE.

There are oftentimes persons convicted of insanity and sent to the asylum who have more or less estate, but no relations in this country. I have information that there are several of this class now in the asylum, with no probable prospect of their recovering. Some, if not all of their estates are in the hands of volunteer, self-appointed keepers, and how managed, or what inventory or report of it is made, the courts and records fail to show. The law should be so framed as to make it the duty of every judicial officer before whom a conviction of insanity is had to ascertain immediately the estate, if any, owned by the patient, its kind, the locality, the amount, in whose possession, and whether there are relatives in the territory; and to make report thereof to the probate judge of the county. The law should charge him and the county attorney to institute proceedings and prosecute to the possession of the estate, and secure



its preservation and increase for the owner, or those to whom it will go at his death. The territory is now paying eight dollars per week for the care and treatment of several subjects in the asylum, one of whom had an estate of ten to fifteen thousand dollars, and no relatives in the United States, so far as known, and others of them have estates amounting to many thousands, but no relatives. If any one of this class shall die before recovery and discharge, the estate of such will escheat to this territory, as in case of anyone else dying here without heirs. It is therefore not only just to the deranged patient and to his heirs that his property shall be in the possession and keeping of this territory, and made to grow, but it is also a matter of interest to the territory itself. All such property, of whatever kind, should be ascertained, and those now holding it required to secure or surrender it to a public officer.

KEEP POLITICS OUT OF STATE INSTITUTIONS.

The public spirited and large liberality for which Montana's people have already become distinguished and so noted is a pledge and guaranty that they will not lag behind the progressive, outreaching benevolence which shines so brightly in the states, but will erect and liberally support state prisons, insane asylums and all other eleemosynary institutions that the wants of people may suggest. They should be constructed and arranged with a view to alleviate suffering, correct and restore to the sunshine of life, and should in the nature of things be committed to the care, oversight and superintendance of agents and servants chosen and trusted by the government. It is the purpose and aim of the people in thus creating those institutions to have them so arranged and conducted as to secure the improvement of the unfortunate and reform the criminal, thereby conducing to the public good. It is expected that every citizen will have heart and pride in such institutions, and approve the amplest appliances for their certain success. To accomplish that end these institutions should never be allowed to have about them the slightest tinge of partisanship. No people ever did create, found and open the doors of such institutions with the view to uphold or support a political party. Yet it is an open fact that in the government of England, and in many of the states of America, such has been their use; and in some instances so shameful that public sentiment and the higher order of statesmanship have found a correction that has been most successfully applied. And I now commend and urge you to adopt and establish here in Montana the same effectual barrier to such prostitution in the management. That provision or preventative is to be found in passing a law directing and providing that in each and every institution the superintendent, officers, agents and servants into whose care, conduct, oversight and management

they are placed shall be selected in equal numbers, as nearly as may be, from each one of the principal leading political parties of the territory; and in filling every vacancy that shall occur the same rule shall be observed. For a great number of years this rule has been observed and most strictly enforced in all the state and congressional elections with reference to the officers set apart and placed in charge of the polls and ascertainment of result for publication. No thoughtful, just-minded citizen would have this rule as to elections changed. The congress of the United States in completing and rounding up the inter-state commerce law, and providing commissioners to overlook and apply its provisions, inserted the same direction as to their selection and appointment; and there are other acts of congress, and many of those passed by state legislatures, in which this same care has been taken, and in every instance its practical working has been found acceptable.

#### AGRICULTURE.

Montana's rich mines of gold, copper, silver, lead and coal, supplying the world with thirty to fifty millions of wealth every year; the rich grasses that cover the mountains and valleys, upon which millions of stock feed and grow, yielding so much of riches, and the fast growing spirit of agricultural enterprise in this empire of territory, are the great foundation interests of the people you are called to represent. Neither one must be neglected, nor must the forces engaged in their toil. If there is one interest above all others, the chiefest and most lasting as a foundation support to the government, it is the agricultural. No human avocation is more honorable. It is a department of life service to the world, having many divisions and departments, each of which pours its stream of joy into the family, and feeds the hungry multitude. No government can not long be a success that neglects the culture and encouragement of ancient husbandry—the least hazardous of any avocation. The beautiful valleys, hills and plains of this wonderful territory are fast filling up with educated people, full of energy and wisdom. Chocely arranged homes and farms are laid out, rich grain fields and growing herds invite the stranger's favor; while the cheaply made fabulous yields are full of remuneration to the laboring thousands. There is not a state nor country in America, the soils and grasses of which yield a better or higher paying reward to the farmer than those of Montana. The tillage of the soil combined with stock growing has found great favor and proved to be successful. This great agricultural interest has not had its full and first place in the legislation of the territory. Montana's agricultural capacities, encouraged and cultivated, promise her the same high and leading distinction—and even greater—than

is now accorded to her on account of her greater output of the precious metals and inexhaustible empire of grass.

I recommend that you create a territorial board of agriculture for Montana, provide for its organization and service in this great interest, and supply it with a reasonably liberal support from the public treasury, to carry forward its efforts in advancing and developing this vast source of wealth in these mountains. Its wealth to the country is not alone in dollars and cents, but its steady practice educates, refines and expands the moral and physical man, strengthens him for good citizenship and repels the approach of crime.

#### TIMBER, FISH AND GAME.

Connected with the subject of tilling the soil, there is one other important interest, full of value to the people, namely, the timber, fish and game. This territory is rich beyond the computation of figures in these God-given blessings and supplies, and a wise statesmanship should guard with the greatest vigilance against their destruction. I have reason to believe the laws already on the statute book upon these subjects are violated in every county in the territory, and within the last two years great injury to the wealth of the country has been inflicted. I charge you to scrutinize well these laws, and to tighten the bands against this reckless waste and destruction.

#### BOUNTY FOR KILLING WOLVES, ETC.

Moreover, I recommend that you pass a law offering a bounty, reasonable in amount, for the killing of those enemies to civilization—the wolf, the coyote and mountain lion. They are, perhaps, the meanest and most cowardly trio of animals that live, and live by stealing. The most careful and best possible safeguards should be incorporated in the law against fraud in its administration.

#### ELECTION LAWS.

It is almost twenty-five years since the few white men and women then in Montana, surrounded by many unfriendly Indians, decided to plant permanently in these mountains the standard of American civilization. Pursuant to that decision, they appealed to the Congress of the United States for its favor, and the organic act was passed, under which this territorial government was organized. That act of Congress, containing suggestively the frame work of the government, and granting authority to make it complete, has served, and is yet the constitution of this territory, and by virtue of the authority therein granted, the people have, from time to time, met in legislative assembly, and formulated their views and wishes into laws. One of the duties devolving upon the law-making power of this new government, and of first importance, was to declare the terms on which the

citizen could acquire the right of suffrage, and how the will of the people, through the process of elections, should be ascertained, and to protect and secure every one entitled to the exercise of this high function, and to guard well against any and every one who would dare interfere. The men whose far-seeing wisdom inaugurated this government knew well, and fully appreciated the right of free suffrage, and understood its power. They provided a ballot for every citizen, entitled under the law to vote. The voting privilege is a sacred right to the voter and every lover of the government is interested in preserving to him that right, and warding off every attempt to weaken the force of its exercise. All over the states of America we hear much of fraud in elections, intimidation, bribery, etc.; and it is claimed that in many instances the people have been robbed of their choice in elections, and results most humiliating and unwelcome forced upon them. The law should be plain and explicit, showing who should be allowed to vote, and the precinct or township where his vote must be cast. I respectfully suggest that in this regard the laws of the territory should be changed so that every voter shall be required, if he votes at all, to vote in the precinct or township of his residence, and not allowed to vote at another; that he be not allowed to vote until he has been a resident citizen of the territory, or have declared his intention to become such, for at least six months, and of the township where he offers to vote for at least thirty days. The government is kept alive, and its activity in ministering to the wants and necessities of the people must be through agencies primarily elected and provided by the people. The voters of the government constitute but a small part of the population for whom the government is created and upheld, and the greatest care should be observed to guard every one of them from intimidation or other vicious influences, tending in any degree to weaken the force of the trust confided to him. It is a great crime against free suffrage and against the people to corrupt the voter, or to offset his voice at the polls with ballots unauthorized by law. Every attempt to inject into the election count illegal votes, or to clothe a legal vote with the garment of bribery or other criminal tinge is a stab and a wound in the direction of death to free government. I recommend that you prepare and pass a bill recasting the election laws of Montana, and provide the amplest security to those who, by the law, are invested with the responsibility of suffrage, and effectually bar the door against those who would engage in the crime of its debauchery. This subject demands your most earnest attention.

In the state of New York and many other states, and in nearly all the large cities, they have registration laws. Their practical operation upon those people has proved to be a success, and I commend most earnestly to your careful study and favor the preparation and enactment of a registration law for Montana.

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Your statesmanship will master the question and arrange the details of such a bill without further suggestion; and a measure of this kind conditioned to apply to the people of this territory will be found to be the strongest safeguard against the enemy to free and fair elections. It is said "penal laws are ineffectual to prevent bribery, intimidation and fraud," and that "the primary remedy is the secret ballot." I have had occasion to bestow some study upon the so-called Australian system of voting, which has recently been adopted in the state of Massachusetts, and went into effect in that state at the beginning of this year. It has been tried, too, in the governments of England, Scotland, Ireland and Canada, and had the favor of those countries. There certainly are some wise features and effectual safeguards against intimidation and bribers in this system, and some of which, if not all, might be made useful in this territory.

ATTORNEY GENERAL.

At the extra session of the last legislative assembly, held in September, 1887, a law was passed exempting the county attorneys from appearing as counsel for the territory in the supreme court, and repealing the law in that regard. The bill so passed created the office of attorney general for the territory, and prescribed the duties assigned him. It also provided that the governor should nominate and appoint by and with the advice and consent of the council. The governor made a nomination for that office in pursuance to the provisions of the law, and the same was rejected by a majority of the council, and that body adjourned leaving the office that they had created vacant. The first term of the supreme court after the adjournment of said extra session of the legislature, was in the early days of January, 1888. The public interest demanded that there should be an attorney general (since the county attorneys were exempted) to look after and attend to the business of the territory pending in that court, and likely to occur in the after terms of the court. Because of such necessity, Hon. William E. Cullen, a gentleman and lawyer of distinguished and known ability, residing in the city of Helena, was appointed on the 31st day of December, 1887, and commissioned by the governor to fill and discharge the duties of that office for the time, and until the last day of this regular session of the legislative assembly for the territory of Montana. He accepted the appointment, and has most faithfully met and performed all the duties of his office. There is a statute in the territory, enacted February, 1879, which forbids the payment of any salary or compensation to any public officer appointed by the governor till his appointment is approved thereafter by the legislative council, provided the vacancy in office, to fill which such appointment is made, existed at the adjournment of the legislative assembly preceding such appointment. Under

the frowns and remonstrating voice of that law, the attorney general has been kept out of any pay for his valuable services to the public, and has never received anything. I recommend that you at once provide for the payment of his salary. Surely there is no man in Montana ready to refuse this just and long delayed claim. The attorney general has made a detailed report to the governor, showing his services rendered, and his careful and laborious examination of the statutes of this territory, and subjoining some wise suggestions, which I submit for your consideration.

#### CODIFICATION OF THE LAW.

I ask your earliest attention to the unsatisfactory condition of the statute law; to the fact that in many particulars it is not up to the standard of progress which characterizes the policy and jurisprudence of the most advanced and enlightened states; and to its manifold inconsistencies and uncertainties. The injunction to "know the law" should succeed intelligent enactments, and not be made before them; and the time is come for you to adopt a plan so to relieve the law of its existing confusion, and to fix its rules, that the people who are expected to obey them may know them. It has been found possible by experience to codify the rules of the common law and to reduce them to the form of the statute.

David Dudley Field, whose able and persistent efforts were begun in 1839, is entitled to the credit for the first of such possibilities, and the legislatures of California and Dakota to the other; while New York has only been prevented from adopting the full results of her several code commissions because her legislature had been too much occupied with special legislation to give the necessary time for their consideration—a reason which does not exist in Montana and should not delay you. One of those results—the code of civil procedure—has been adopted by New York and by twenty-two other states and territories, including Montana, and there is every reason for the opinion that the penal, political and civil codes belonging to the system, of which the code of civil procedure is a part, will, if adopted into law here, prove equally salutary and beneficent. I, therefore, recommend that a law be framed by you for the appointment of a code commission, to be composed of gentlemen learned in the law, with sufficient power and means to prepare and present for the consideration of the legislative assembly at a future session a code or codes of the law; that the rules therein contained be a reduction to the form of statute of the body of the law; that the powers of the commission be plenary in the adoption of the results of other American codifiers, preserving, however, those statutes in existence in Montana which have been enacted with reference to local conditions; and that the rules contained in such code or codes, when authoritatively prescribed, be the law and the only law of this commonwealth, except so far as the same

may be controlled by the constitution and laws of the United States, or by subsequent enactments of the local assembly. Sufficient time should be given to the commissioners to discharge their important duties with care and accuracy, and a sufficient means should be placed at their disposal to enable them to perform their task conveniently and with suitable facilities.

#### MILITIA.

I submit herewith the biennial report of the adjutant general to December 1, 1888, showing the state and the strength of the National Guard of Montana. I cordially approve of the recommendations he makes to bring the regularly enlisted, organized and uniformed active militia of Montana, which constitutes the National Guard, to a degree of effectiveness for immediate service in the field in the event such services should be at any time required. Since the date of the report the two houses of congress have made a special appropriation of about thirty-three thousand eight hundred dollars to arm and equip the National Guard of Montana, and the bill so passed will doubtless receive executive approval. The law authorizing and regulating the National Guard is extremely defective and should be so amended as to create a system of rules applicable to their object, and I hope that the enactment of proper and needed rules and regulations upon that subject will receive your careful attention. In imitation of the law of many states and territories, where no larger force of active militia is encouraged or required than that of Montana, the offices and duties of quartermaster general, commissary general, inspector general, paymaster general and judge advocate general are united with and devolve upon the adjutant general, with authority in him to appoint an assistant; and as there cannot be a well-ordered, active militia without an adjutant general, and as his report shows that the proper discharge of his duties require considerable time, attention and familiarity with those duties, I suggest that the offices above be combined, and that a salary be fixed for the adjutant general and his assistant compensatory to the services rendered.

#### MONTANA LIBRARY.

I submit with this communication to you the report filed with me of Hon. N. W. McConnell, chief justice of the supreme court, touching the care and supply of the Montana library, and I invite your favorable action upon the suggestions and recommendations of that report. I mention the further fact that there are thirty-five hundred to five thousand volumes and publications of the miscellaneous part of the library, for the care and preservation of which sufficient provision is not made. I invite you to come and see for yourselves the condition it is in, and to adopt the proper remedy. This library, that is the law, miscel-

laneous and historical departments, should all be made one great, growing interest in the territory. Already it is one chief attraction and subject of praise and wonder to all strangers who visit the capital, and it is the pride of Montana's people as they point to it, and realize that its present proportions and extent far exceed like enterprises and departments in many of the states. This one interest in Montana should be nursed and made to grow by the legislature. I trust you will open a liberal hand to its encouragement.

There are a number of great interests, full of promise and much of the spirit of enterprise and investment of capital, all over this territory; and yet there is no conflict of interests or antagonizing forces in the industries and striving development of this country. In the natural conformation of the territory there is, and must forever be, eastern, western, northern and southern divisions of this government. Nevertheless, these parts are one common whole, and one government. You are the trusted agents to consider and act for all, and not for a part of the people; and no such thing as class legislation or sectional measures will receive your favor, except as may be for the public good. Each part of the territory must help support the other, and so every separate interest and industry must hold up the other. I shall gladly help and co-operate with you in everything for the honor and for the good of this people.

PRESTON H. LESLIE, Governor.